

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

STEVEN JACOBSEN.)	
)	
Petitioner,)	
)	
v.)	CIV-07-1004-R
)	
JUSTIN JONES, DIRECTOR,)	
)	
Respondent.)	

ORDER

Petitioner filed this action seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Valerie K. Couch for preliminary proceedings. On October 24, 2007, Judge Couch issued a Report and Recommendation, wherein she recommended that the Respondent's motion to dismiss be granted and that the petition be denied as untimely. The matter is currently before the Court on Petitioner's timely objection to the Report and Recommendation.

As a matter of statutory and constitutional law, the Court undertakes *de novo* review of those portions of the Report and Recommendation to which specific objection has been made. *See*, 28 U.S.C. § 636 (b)(1)(C); *Summers v. State of Utah*, 927 F.2d 1165, 1167 (10 Cir.1991). The Court applies a "firm waiver rule," which holds "that a party's objection to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for *de novo* review by the district court or for appellate review." *United States v. One Parcel of Real Property*, 73 F.3d 1057, 1060 (10th Cir.1996). Having

conducted its *de novo* review, the Court finds as follows.

Judge Couch recommended that the motion to dismiss be granted because Petitioner had not timely filed the petition pursuant to 28 U.S.C. § 2244(d)(1)(A). The Report and Recommendation sets forth the complicated and convoluted procedural history of Petitioner's attempts to seek post-conviction relief in the state courts. Having conducted the *de novo* review required by the law the Court concludes Petitioner is not entitled to either statutory or equitable tolling and that the petition should be dismissed as untimely.

The Report and Recommendation is ADOPTED IN ITS ENTIRETY and the petition for habeas corpus is DENIED.

IT IS SO ORDERED this 9th day of November 2007.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE